

Claim Rejections

Claims 1-5,11-14 and 18-20 were rejected under 35 USC 102(e) as being anticipated by Fenn et al. (US 6,470,217). Claims 9,10 and 17 were rejected under 35 USC 103(a) as being unpatentable over Fenn in view of Ellis et al. (6,924,467). Claims 6,7,15, and 16 were rejected under 35 USC 103(a) as being unpatentable over Fenn in view of Higgins et al (US 6,765,984).

Claims rejected by way of Fenn et al

Claims 1-5,11-14 and 18-20 were rejected under 35 USC 102(e) as being anticipated by Fenn et al. (US 6,470,217). The Applicant traverses this rejection and respectfully asserts that the Examiner has fundamentally misinterpreted the Fenn reference. Fenn does not, in fact, teach a mammography imaging assembly, but rather a microwave treatment assembly. The Fenn reference fails to teach an imaging assembly at all. Fenn does not teach the use of a radiolucent heating assembly to heat the patient exposure surface. Fenn teaches the use of microwave radiation to fry tissue within the breast itself. As a matter of fact, short of the use of microwave radiation to burn out internal tissue, the disclosure in Fenn specifically refers to placing and keeping the breast in a hypothermia condition prior to application of the mircrowave radiation. This is entirely opposite of the limitations of the present invention.

The recitation of (col. 11, lines 4-45) fails to teach using thermo sensors to control a thermo generating element which in turn controls temperature at the patient exposure surface of a detector bucky. Instead, the entire basis of the Fenn reference is directed towards control of temperature inside the breast tissue not at a detector bucky surface. Similarly, the Examiner is mistaken when he asserts that (col. 4, lines 57-62 teach the use of a thermo generating element comprising a thermo electric element positioned within the imaging detector bucky. The recited microwave applicators are not placed within an imaging detector bucky and furthermore are not directed towards generating of thermal electric heat. They are directed towards generation of mircrowave radiation directed to generate heat remotely in breast tissue. They do not

teach, as asserted, logic adapted to remove power prior to imaging activation. The cited paragraph (col11,4-45) simply states that x-rays or MRIs may be performed subsequently. Quite obviously, an MRI could not be applied with the patent remaining in the machinery. Therefore, it is clear that no such intelligent logic is taught. The citation claiming to teach a radiolucent cover is clearly inaccurate. The citation (col5, line41-53) teach a clear cover suitable for use with ultrasound. Ultrasound clear is not radiolucent. Since Fenn clearly never contemplates passing x-rays through its microwave generating structure, it need not be radiolucent and therefore is neither contemplated nor taught.

The Applicant, therefore, requests reconsideration.

Claims rejected under 35 USC 103(a)

Claims 9,10 and 17 were rejected under 35 USC 103(a) as being unpatentable over Fenn in view of Ellis et al. (6,924,467). Claims 6,7,15, and 16 were rejected under 35 USC 103(a) as being unpatentable over Fenn in view of Higgins et al (US 6,765,984). Again, the Applicant respectfully traverses and requests reconsideration.

The Applicant reasserts the traversal of Fenn as described above. Furthermore, the Applicant was unable to find within Ellis a reference to carbon flakes suspended in a liquid polymer as claimed by the present invention. And finally, the Applicant traverses the Examiner's assertions relative to Higgins. Higgins teaches the use of a radiolucent pad that is affixed by way of double back tape. No teaching of logic adapted to automatically remove the cover prior to imaging is taught in Higgins as asserted by the Examiner. Rather, the pad (and not a heating one) in Higgins is permanently or semi-permanently attached. This clearly cannot be combined with the Fenn reference to render the present claims unpatentable.

With this response, it is respectfully submitted that all rejections and objections of record have been overcome and that the case is in condition for allowance.

Should the Examiner have any questions or comments, he is respectfully requested to contact the undersigned.

Respectfully submitted,



Thomas E. Donohue
Reg. No. 44,660
Artz & Artz, P.C.
28333 Telegraph Road, Suite 250
Southfield, MI 48034
(248) 223-9500
(248) 223-9522 (Fax)

Dated: February 16, 2006